

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of

Robert K. Hippert, Nancy S. Hippert,
Ronald H. Frey & Barbara L. Frey,
d/b/a H&F Realty and Indoor Air Quality, Inc.,

Docket No. CAA-III-064

Respondents

ORDER DENYING MOTION TO DISMISS

Respondents have moved to dismiss this action on a variety of grounds. They essentially argue that this case should be dismissed because the facts do not support the violations alleged in the administrative complaint; because of the purported delay of the U.S. Environmental Protection Agency ("EPA") in initiating this action and the resulting prejudice to respondents in the preparation of their defense; because of EPA's failure to notify respondents that it intended to inspect their property; and because of the manner in which EPA conducted the inspection and collected evidence. Alternatively, respondents argue that certain evidence tending to support EPA's case should be suppressed and that EPA should be directed to comply with certain discovery requests. EPA has filed an opposition to this motion.

The respondents have failed to articulate a basis for dismissing EPA's complaint at this early stage. Indeed, given the fact that the prehearing exchange ordered in this case has not yet even taken place, the arguments in support of dismissal, suppression of evidence, and discovery are prematurely raised.

Accordingly, respondents' motion to dismiss is denied.

Carl C. Charneski
Administrative Law judge

Issued: November 8, 1996
Washington, D.C.

IN THE MATTER OF ROBERT K. HIPPERT, NANCY S. HIPPERT, RONALD H. FREY & BARBARA
L. FREY d/b/a H & F REALTY; AND INDOOR AIR QUALITY, INC., Respondents

Docket No. CAA-III-064

CERTIFICATE OF SERVICE

I certify that the foregoing Order Denying Motion to Dismiss, dated November 8 1996, was sent in the following manner to the addressees listed below:

Original by Regular Mail to:

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Dated: November 8, 1996